

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JOHN RICHARDSON and)
MARY J. WARD RICHARDSON,)
Plaintiffs)
v.) No. 3:15-0300
RUBIN LUBLIN TN, PLLC and) Senior Judge Haynes/Bryant
RUBIN LUBLIN LLC,)
Defendants)

MEMORANDUM AND ORDER

Defendants have filed their motion to dismiss (pursuant to Federal Rules of Civil Procedure 12(b)(6) and 41(b)). (Docket Entry No. 6). Plaintiffs have filed a response in opposition coupled with their motion for leave to amend their complaint (Docket Entry No. 14). Defendants have filed both a reply in support of their motion to dismiss and a separate response in opposition to Plaintiffs' motion for leave to amend their complaint (Docket Entry Nos. 19 and 20).

Rule 15(a)(2) of the Federal Rules of Civil Procedure, which pertains to amended pleadings, provides in part that "[t]he court should freely give leave when justice so requires." In this case, the undersigned Magistrate Judge finds, in keeping with the liberal standard favoring amended pleadings, that Plaintiffs' motion for leave to amend their complaint should be granted. This

finding is further supported by the fact that this case is relatively new and little or no discovery has occurred. Accordingly, Plaintiffs' motion for leave to amend the complaint (Docket Entry 14) is **GRANTED**.

Further, in view of the foregoing ruling, Defendants' motion to dismiss the original complaint (Docket Entry No. 6) is hereby **DENIED** as moot. This ruling is without prejudice to Defendants' right to file a motion to dismiss the amended complaint. However, as a practice pointer, the undersigned Magistrate Judge notes that a number of the grounds asserted by Defendants in their earlier motion to dismiss relied upon documents and other evidence outside the pleadings. As a general rule, such matters are not typically considered in ruling on a motion to dismiss pursuant to Rule 12(b) but are properly presented to the Court in a motion for summary judgment filed pursuant to Rule 56.

It is so **ORDERED**.

/s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge